

**DETAILED ACTION**

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***Claim Rejections - 35 USC § 112***

1. Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 33, line 2, recites the limitation "it". The limitation must be positively recited.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 25-29, and 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohara et al (6148474) in view of Tapp (4393536).

a. Ohara et al discloses the claimed invention except for a retainer Qhara et al discloses a a separating apparatus (top cover is the separating apparatus above the main body) is above the main body . Tapp shows it would have been to have substituted the cover of the main body with a retainer (22) which is a hose seat( which is on multiple sides being the back and front) and with the cover of Ohara et al to hold the wand assembly because one of ordinary skill in

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the art would have known to switch these element for one another to yielded predictable results at the time of the invention.

3. Claims 1-3, 5-9, 11-23, 25-29, and 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nighy (20020189046A1) in view of Tapp (4393536).

b. Nighy discloses the claimed invention except for a retainer. Nighy discloses a separating apparatus (element 18 is the separating apparatus above the main body element 12) is above the main body Tapp shows it would have been to have substituted the cover of the main body with a retainer (22) which is a hose seat ( which is on multiple sides being the back and front) and with the cover of Ohara et al to hold the wand assembly because one of ordinary skill in the art would have known to switch these element for one another to yielded predictable results at the time of the invention.

4. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ohara et al (6148474) as applied to claims 1-3, 25-29, and 31-37 above, and further in view of Yang (2002/0083550A1).

a. The modified Ohara et al discloses the claimed invention except for a cyclonic separator. Yang discloses a separating apparatus with a cyclonic separator (par.0013) it would have been to have substituted the vaccum system for one having a cyclonic separator because one of ordinary skill in the art would have known to switch these element for one another to yielded predictable results at the time of the invention. (KSR)

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5. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nighy (20020189046A1) as applied to claims 1-3, 5-9, 11-23, 25-29, and 31-37 above, and further in view of Yang (2002/0083550A1).

b. The modified Nighy discloses the claimed invention except for a cyclonic separator. Yang discloses a separating apparatus with a cyclonic separator (par.0013) it would have been to have substituted the vacuum system for one having a cyclonic separator because one of ordinary skill in the art would have known to switch these element for one another to yielded predictable results at the time of the invention. (KSR)

### ***Response to Arguments***

6. **Applicant's arguments filed 6/16/09 have been fully considered but they are not persuasive.**

7. **Applicant states that the 103 rejections are invalid.**

c. The applicant has amended the claims; however, a hose seat is anything the hose is sitting on because there is no defined structure and it will no doubt have fixed points.

d. The terms retaining and locking mechanism are the same and once something is retained it is also locked.

e. A receiving channel is recited but where is the channel located and how is it shaped. Therefore a channel can be anything.

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- f. The new claims mention a lot of functional stuff that the prior art is showing. It is true that was no claimed before but that does not mean it was not already shown.
- g. New art was found to address the cyclone please see above rejection.
- h. The rejections are still valid and the rejections stand. Applicant is going have to include some real substance in the claims with recited structure because at present the claims are broad.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D. WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-TH.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MONICA CARTER can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ldw

/LEE D WILSON/  
Primary Examiner, Art Unit 3727

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